

APPENDIX 2

2 GENERAL CONDITIONS OF PROPOSAL

2.1 SUBMISSION OF PROPOSAL (herein sometimes also referred to as “response”)

- 2.1.1 The conditions herein constitute a part of the RFP and the Proposer acknowledges acceptance of these conditions and waives all claims, rights, demands and the benefit of any provisions of any statute, rule of law or regulation that might affect the rights of Sacramento Metropolitan Fire District under this RFP by signing the Signature Sheet. Responses submitted that do not include a signed Signature Sheet (*Appendix 5*) will not be accepted.
- 2.1.2 All communications regarding this RFP should be sent to Ric Maloney of the Emergency Medical Services Division. The Sacramento Metropolitan Fire District (herein and elsewhere in this RFP sometimes referred to as “Metro Fire” will assume no responsibility for oral instructions or suggestions. Should the Proposer find discrepancies in, or omissions from the specifications, or should the Proposer be in doubt as to their meaning, the Proposer must notify, in writing, Ric Maloney of the Emergency Medical Services Division, which may, if necessary, send written addenda to all Proposers.
- 2.1.3 Each Proposer must make full disclosure of any relationship of any employee of the Sacramento Metropolitan Fire District who makes recommendations concerning the selection of Proposals or any employee who may allot work to, or order supplies from, the successful Proposer. In addition, each Proposer must reveal any details of ownership or partnership arrangements of any immediate relative employed by Sacramento Metropolitan Fire District.
- 2.1.4 Proposals shall be prepared at the sole cost of the Proposer and under no circumstances will the Sacramento Metropolitan Fire District be responsible for these costs.

2.2 PROPOSAL AMENDMENT AFTER SUBMISSION AND RFP CLOSING DATE

- 2.2.1 Proposals submitted may be withdrawn and re-submitted with amendments prior to the closing date for the RFP. Proposed amendments submitted in any other manner shall not be accepted or considered by Sacramento Metropolitan Fire District.
- 2.2.2 Any attempts to amend a submitted Proposal by way of a letter or facsimile or any other document or means, which would result in a Proposal being incomplete, ambiguous or inconsistent or otherwise non-compliant, shall result in the Proposal being rejected.

2.3 PATENTS

- 2.3.1 The successful Proposer will pay all royalties and patent license fees or other fees in respect of any intellectual property right required to perform the work stipulated in the RFP. The successful Proposer shall, at its own expense, defend all suits and proceedings instituted against the Sacramento Metropolitan Fire District and indemnify the Sacramento Metropolitan Fire District against any award of damages, demands, losses, charges or costs made against Sacramento Metropolitan Fire District if such suits or proceedings are based on any claim that any of the products, documentation, parts or equipment, as supplied by the successful Proposer, constitutes an infringement, or an alleged infringement, of any patent or other intellectual property right by the successful Proposer or anyone for whose acts it is liable.
- 2.3.2 If any of the products, documentation, parts or equipment supplied by the successful Proposer constitute an infringement of patent or other intellectual property rights and its use is enjoined, the successful Proposer will, at its own expense, procure for the Sacramento

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Metropolitan Fire District, the right to continue its prior use, replace or modify the supplied item so it becomes non-infringing and meets the Sacramento Metropolitan Fire District's requirements, or pay Sacramento Metropolitan Fire District for its loss of use of the item and for consequential damages or losses which occur as a result of the actual or alleged infringement of any patent or other intellectual property right, by the successful Proposer or anyone for whose acts it is liable.

2.4 GENERAL

- 2.4.1 The Sacramento Metropolitan Fire District may refuse to award a contract to a Proposer who has not complied with applicable State and Federal licensing regulations or bylaws or any other requirements.
- 2.4.2 Each Proposer warrants that the products and services it will supply to the Sacramento Metropolitan Fire District conform in all respects to the standards set forth by State and Federal licensing regulations.
- 2.4.3 Headings and titles in the RFP are for convenience only and are not explanatory of the clauses with which they appear.
- 2.4.4 Any references in the RFP to statutes or regulations are deemed to include the most recent amendments thereto or replacements thereof.

2.5 INDEMNIFICATION

- 2.5.1 The successful Proposer, by its acceptance of a purchase order, agrees to indemnify and hold harmless the Sacramento Metropolitan Fire District, its agents and employees from and against all loss or expense that may be incurred by the Sacramento Metropolitan Fire District, its officials, officers, employees and agents as a result of bodily injury, including death at any time resulting therefrom, sustained by any person or persons, or on account of damage to property, including loss of use thereof arising out of, or as a consequence of, the performance of the work stipulated in the RFP.

2.6 COMMITMENT

- 2.6.1 Proposers are advised that no commitment exists under this RFP until such time as the successful Proposer receives official written confirmation from the Office of the Fire Chief, in the form of a duly executed contract with the winning Proposal.

2.7 LIMITATION OF LIABILITY

- 2.7.1 Under no circumstances will a Proposer be entitled to consequential damages for any loss of profit or damage to reputation.
- 2.7.2 Under no circumstances will a Proposer be permitted to limit their liability to an amount less than two million (\$2,000,000.00) dollars.
- 2.7.3 Under no circumstances will a Proposer be entitled to limit special damages.

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2.8 ACCEPTANCE OR REJECTION

2.8.1 The Sacramento Metropolitan Fire District reserves the right to reject any and/or all Proposals, as well as to cancel the project which is the subject of this RFP. Without limiting the generality of the foregoing, any Proposal which:

- a. is incomplete, obscure, irregular, unrealistic or non-compliant;
- b. has erasures, ambiguities, inconsistency or correction(s);
- c. omits a price on any one or more items in any Schedule;
- d. fails to complete the information required in any Schedule or tabulation; and
- e. fails to include a duly executed any other required form

may at the Sacramento Metropolitan Fire District's sole discretion, be rejected. Further, a response may be rejected on the basis of the Proposers' past performance, financial capabilities, completion schedule or failure to comply with state or federal regulations. The purpose of the Sacramento Metropolitan Fire District is to obtain a Proposal most suitable to the interests of the Sacramento Metropolitan Fire District and what it wishes to accomplish, the Sacramento Metropolitan Fire District has the right to waive any irregularity or insufficiency or non-compliance in any Proposal submitted and to accept the Proposal which it deems most favorable to its interests or to reject all Proposals and cancel the RFP.

2.9 FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT (FOIPP)

2.9.1 The Sacramento Metropolitan Fire District acknowledges that each response may contain information in the nature of trade secrets or commercial, financial, labor relations, scientific or technical information of or about a Proposer. The Sacramento Metropolitan Fire District acknowledges and agrees that responses to this RFP are provided in confidence and protected from disclosure to the extent permitted under law.

2.10 VENDOR PERFORMANCE AND EXCUSABLE DELAYS

2.10.1 The successful Proposer may be evaluated periodically throughout the course of work and at the end of the project as the case may be. Any evaluations will be shared with the Proposer, with the goal of immediate and permanent resolution where problems and concerns occur.

2.10.2 The Sacramento Metropolitan Fire District and Proposers acknowledge that delays in performance may arise due to events beyond their reasonable control. Such delays will be excusable and the relevant obligations suspended, but only for such reasonable period of time as the cause for the delay remains beyond the reasonable control of the obligated party.

2.11 COST OF PREPARATION

2.11.1 Any cost incurred by the Proposer in the preparation of a Proposal must be borne solely by the Proposer.

2.12 GIFTS AND DONATIONS

2.12.1 The successful Proposer will ensure that no representative of the successful Proposer will extend any entertainment, gift, gratuity, discount, or special service, regardless of value, to any employee of the Sacramento Metropolitan Fire District. The successful Proposer will report any attempt by any employee of the Sacramento Metropolitan Fire District to obtain such favors to the Office of the Fire Chief.

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2.13 CLARIFICATION

- 2.13.1 The Sacramento Metropolitan Fire District reserves the right to seek clarification from any Proposer to assist in the evaluation of its Proposal.

2.14 NEGOTIATION

- 2.14.1 By submitting a Proposal, a Proposer accepts that a contract may be concluded upon notification by the Sacramento Metropolitan Fire District. However, the Sacramento Metropolitan Fire District reserves the right to negotiate with any Proposer the terms and conditions of the Proposal. If the parties, after having bargained in good faith are unable to conclude a formal agreement, the Sacramento Metropolitan Fire District and the Proposer will be released without penalty or further obligations other than any surviving obligations regarding confidentiality and the Sacramento Metropolitan Fire District may, at its own discretion, contact other Proposers whose Proposals are considered suitable for the project and attempt to conclude a formal agreement with them.

2.15 INTELLECTUAL PROPERTY

- 2.15.1 The successful Proposer represents and warrants that it has the sole and unrestricted right, title and interest or good and sufficient power, authority and right to use any intellectual property required for the performance of the contract.
- 2.15.2 The successful Proposer shall pay all fees associated with the use of the intellectual property including, but not limited to, license fees and royalties required for the performance of the contract.
- 2.15.3 The successful Proposer shall hold the Sacramento Metropolitan Fire District, its Board of Directors, the Chief, employees, officers, and agents harmless from and against all claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the successful Proposer's performance of the contract which are attributable to an infringement or an alleged infringement by the successful Proposer, or anyone for whose acts they may be liable, of any intellectual property right.
- 2.15.4 If the Sacramento Metropolitan Fire District is enjoined or there is a reasonable likelihood that it may be enjoined as a result of an injunction or claim from using any intellectual property that is incorporated into, or associated with, any product or equipment installed by the Successful Proposer, the Successful Proposer, at its sole expense, shall:
- (a) procure the right for the Sacramento Metropolitan Fire District to continue using the infringing intellectual property;
 - or
 - (b) replace or modify the intellectual property to make it non-infringing, so long as such replacement or modification does not adversely affect the performance or use of the product or equipment or the Work generally, all subject to the prior written approval by the Sacramento Metropolitan Fire District.

2.16 RIGHT TO TERMINATE THE CONTRACT

- 2.16.1 Any of the following occurrences or acts will constitute a material breach by the successful Proposer under the terms and conditions of the contract:

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- (a) Non-performance or non-observance of any of its other covenants, agreements, or obligations hereunder, express or implied, continuing for fifteen (15) days after the Sacramento Metropolitan Fire District has given the successful Proposer notice in writing. If the failure cannot be remedied within fifteen (15) days, then the Sacramento Metropolitan Fire District, at its discretion, may extend, in writing, the time period, or terminate the contract;
- (b) an assignment for the benefit of creditors or becoming bankrupt or insolvent, taking the benefit of any legislation for the protection of bankrupt or insolvent parties; or
- (c) the appointment of a Receiver for the successful Proposer.

In the event either Subparagraphs (b) or (c) occur, as set forth in this Proposal, the Sacramento Metropolitan Fire District will have the right to terminate the contract immediately, which shall be done in writing and sent to the Proponent/Proposer via certified U.S. Mail.

- 2.16.2 Notwithstanding anything contained herein, the Sacramento Metropolitan Fire District may, at any time during the term of the contract, upon giving 30-days written notice to the successful Proposer, terminate the contract if the Sacramento Metropolitan Fire District is of the opinion that the services supplied by the successful Proposer are not of a standard satisfactory to the Sacramento Metropolitan Fire District or that the successful Proposer no longer has the financial capability to perform its obligations under the contract. Further, the Sacramento Metropolitan Fire District, in its sole discretion, may terminate the agreement for reasons including but not limited to, unethical or criminal activities upon giving 7-days notice to the successful Proposer.

2.17 NO COLLUSION

- 2.17.1 Except as otherwise specified or by reason of a provision of the contractual documents, no person either natural, or corporation, other than the Proposer, has or will have any interest or share in its Proposal or in any award or contract arising out of this RFP. There is no collusion or arrangement between the Proposer and any other actual or prospective Proposer's, in connection with Proposals submitted in response to this RFP, and the Proposer has no knowledge of the contents of other Proposals and has made no comparison of figures or agreement or arrangement, express or implied, with any other party in connection with the making of its Proposal.

2.18 EXECUTION OF FORMAL AGREEMENT

- 2.18.1 If the Proposer's Proposal is accepted, the Proposer shall be required to enter into a Formal Written Agreement.
- 2.18.2 The Formal Written Agreement will be prepared by the Sacramento Metropolitan Fire District and provided to the Proposer for review. The Proposer will endeavor, in good faith and in a timely manner, execute the Formal Written Agreement (Contract) and return the executed document to the Sacramento Metropolitan Fire District.

2.19 NO WITHDRAWAL OF PROPOSAL

- 2.19.1 A Proposal is a specialty instrument by the Proposer and is irrevocable. Therefore, it may not be withdrawn after its opening until it has been considered and either rejected or accepted by the District, or the RFP has been cancelled.

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2.20 LENGTH OF AGREEMENT

- 2.20.1 Any contract resulting from this request shall be in effect for a period of five (5) years from the date of official acceptance by the Sacramento Metropolitan Fire District and may be extended upon mutual agreement by both parties.

2.21 ACCEPTANCE OF PROPOSAL

- 2.21.1 The acceptance of a Proposal by the Sacramento Metropolitan Fire District will be made by written notice, from the Office of the Fire Chief, addressed to the successful Proposer, at the address given in the Proposal.

2.22 EVALUATION CRITERIA

- 2.22.1 The district retains the option to clarify bid information and/or request on site evaluation of software from any vendors once the bidding process is closed. The following criteria will be utilized by the Evaluation Team to determine the successful vendor:

CRITERIA	Weight
COMPLIANCE TO RFP DIMENSIONS – meets Mandatory and High Priority items	25%
ONSITE USER EVALUATION	25%
VENDOR DIMENSIONS – Financial stability, service, vision, R&D, similar-sized projects, references	20%
SYSTEM INTEGRATION – Billing, CAD, Firehouse, Hospital Database	10%
COMPLETE SOLUTION PROVIDER – Software, hardware, network, data mining & reporting, training , and support	10%
FINANCIAL COST - Full costing analysis completed	10%
TOTAL	100%

If successful, the Proponent may be required to provide:

2.23 CREDIT CHECKS

- 2.23.1 The successful bidder agrees to allow and authorize the Sacramento Metropolitan Fire District to conduct a credit check. A “Credit Application” form shall be completed and returned to the Sacramento Metropolitan Fire District within 24 hours after receipt by the successful bidder, if so requested by the Sacramento Metropolitan Fire District.

2.24 PERFORMANCE GUARANTEE

- 2.24.1 A contract performance guarantee may be required in a form, type and amount, to be mutually agreed upon during contract negotiations between the Sacramento Metropolitan Fire District and the successful Proposer.

2.25 INSURANCE REQUIREMENTS

- 2.25.1 The successful Proponent shall during the term of this Agreement and at its own expense, maintain with Insurers satisfactory to the Sacramento Metropolitan Fire District’s General Counsel the following insurance policies:

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- a) A Commercial General Liability insurance policy for bodily injury (including death) and property damage in an amount of not less than TWO MILLION DOLLARS (\$2,000,000.00) inclusive limit for any one occurrence and such policy shall include:
 - i) Sacramento Metropolitan Fire District as an Additional Insured;
 - ii) A Cross Liability clause;
 - iii) Contractual Liability Coverage;
 - iv) Non-Owned Automobile Liability Clause;
 - b) A Professional Liability insurance policy for damages arising out of errors, omissions, or negligent acts by or on behalf of the Proposer in providing professional services under this Agreement, such insurance policy to be in an amount of not less than TWO MILLION DOLLARS (\$2,000,000.00) for any one claim, and in the annual aggregate, or such other amount as agreed to by the Sacramento Metropolitan Fire District and the Proposer and confirmed in writing, and such insurance shall remain in operation for at least twenty four (24) months after completion of the Project.
- 2.25.2 The said insurance policies shall include provision for the Sacramento Metropolitan Fire District to be given thirty (30) days prior written notice to cancellation, and thirty (30) days prior written notice of any material change requested by Proposer of said insurance policies.
- 2.25.3 The Proposer shall furnish documentary evidence, satisfactory to the Sacramento Metropolitan Fire District's General Counsel of evidence of such policies and of the renewal or continuance of such insurances within ten (10) business days of any expiration date(s) thereof.
- 2.25.4 The Proposer, and not the Sacramento Metropolitan Fire District, shall be responsible for any deductible that may apply in any of the said insurance policies.
- 2.25.5 The Proposer covenants and agrees that the Sacramento Metropolitan Fire District's insurance requirements mentioned above shall not be construed to and shall in no manner limit or restrict the liability of the Proposer.

2.26 SECURITY CLEARANCE

- 2.26.1.1 The successful Respondent shall, at its sole expense, obtain security clearance in the form of completion of "Live Scan fingerprinting" from the Department of Justice, and provide certified proof thereof, for all of its employees assigned to work on-site at the Sacramento Metropolitan Fire District or who will have access to on-line information, prior to that employee's commencement of work on the Sacramento Metropolitan Fire District's premises or projects.

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2.27 PROVEN SATISFACTORY PERFORMANCE

- 2.27.1 The Sacramento Metropolitan Fire District reserves the right to reject any offer based on products that have not demonstrated proven satisfactory performance through field trials or actual use by the Sacramento Metropolitan Fire District, or a comparable fire agency. Whether a product meets this requirement shall be the sole decision of the Sacramento Metropolitan Fire District. The lowest monetary bid of any of the submitted Proposals will not necessarily be accepted.